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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/446,425	12/20/1999	CHRISTOPH CAPELLARO	P99.2497	2302

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EXAMINER

PICH, PONNOREAY

ART UNIT PAPER NUMBER

2135

DATE MAILED: 05/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/446,425

Applicant(s)

CAPELLARO ET AL.

Examiner

Ponnoreay Pich

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 May 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 28-60.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See attached office action.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

DETAILED ACTION

Claims 1-27 were cancelled. Claims 28-30 were amended. Claims 28-60 are pending. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Docketing

Please note that the application has been redocketed to a different examiner. Please refer all future communications regarding this application to the examiner of record using the information supplied in the final section of the office action.

Response to Amendment

Applicant's amendments to claims 28-30 have been considered, however they raise new issues for the claims after a final rejection has already been made and would require further considerations, so will not be entered. The examiner notes that applicant argues that the limitations amended onto claims 28-29 can be found in claim 30, so no new search will be required, but the applicant's arguments for claim 30 being allowable is not persuasive. Claim 30 was also amended which raises new issue.

Response to Arguments

In the arguments/remarks filed 5/11/2005, applicant stated that the English translation of Pfaff provided by the office did not include an English translation of all the drawings. The examiner notes that there are sufficient English descriptions in the translated text of the specification of Pfaff which describes the

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drawings well enough such that anyone can determine what is being conveyed in each of the drawings.

Applicant's first argument is directed towards the final sentence of the first paragraph on p3 of the office action dated 2/9/2005. The sentence states that in Pfaff, "the steps of cryptographically processing the message and encoding the message are in reverse order, but this would not impact the resultant message and hence cryptographically processing the message and encoding can follow in any order because the same cryptographically encrypted message would still be the resultant." Applicant states that the statement would have some relevance if the claims were directed towards an encrypted and encoded message, but the claims are directed towards encoding and/or decoding messages. The examiner notes that Pfaff also is directed towards encoding and decoding messages. On page 11, last paragraph, a message is encoded using a transport protocol format (also step 602 in Fig 6). On page 12, fourth paragraph, a message is cryptographically processed (also step 604 in Fig 6). On page 14, second paragraph the message is decoded (also steps 702 and 705 in Fig 7). As applicant has admitted that the previous examiner's statement in the last office action would have relevance to the claims if Pfaff was directed towards encoding and decoding messages, the examiner submits that Pfaff is relevant towards the claims. More specifically, applicant's claims are directed towards encoding, then applying a cryptographic process, and then encoding and decoding, applying an inverse cryptographic process, and decoding the message. This can be seen in Fig 7 of Pfaff, so Pfaff has relevance towards the claims. The steps shown in Fig

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7 aren't translated in English, but there is sufficient translation of the text of Pfaff's specification provided by the office to applicant where anyone can follow what is happening in Fig 7. Applicant also argues that by reciting that the operations are performed in different components of a computing system and that a rejection for obviousness requires some suggestion in Pfaff or some other prior art reference that would make it obvious to one of ordinary skill in the art to modify were the operations are performed. The examiner notes that applicant's operations are performed by computers and proxy agents. The examiner believes that there is sufficient disclosure in Pfaff where the operations of Pfaff are performed by computers. Proxy agents can be either hardware or software entities, and certainly there are software entities which are disclosed by Pfaff which reads on proxy agents. The examiner will get more specific below in discussing applicant's more specific arguments.

Applicant argues that the Response to Arguments in the last office action fails to address applicant's last filed arguments in which applicant argues Pfaff does not disclose "subjecting the encoded message to at least one cryptographic process to form a cryptographically processed message" and "decoding the inversely cryptographically processed message by an application according to the encoded format of the network protocol using said decoding of the cryptographically processed message." As noted by the applicant, the passages cited by the previous examiner are directed towards describing the operations seen in Fig 6 and the apparatus in Fig 13. Applicant argues the figures only show boxes without actual textual legends. The current examiner had no trouble

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figuring out what each of the boxes represented by reading the translated text provided by the previous examiner and the examiner respectfully submits that the textual legend that applicant says is missing can be found by reading the provided text translation. For example, in Fig 13, P is clearly program P as indicated on p12, second paragraph, line 1. CB is clearly coded communication CB as indicated on p12, second paragraph, line 5. The other items in Fig 13 can be determined in a similar manner from the translated text. The flow chart of Fig 6 can also be determined from the translated text. Examining the previous examiner's cited passages, the examiner notes p12, second paragraph describes a message CB which was encoded. Page 12, fourth paragraph describes the same message having a cryptographic process applied to it. The examiner notes that the message CB was first decoded. However, applying broadest, reasonable interpretation to the limitation being argued, the same message that was encoded is having the cryptographic process applied to it, the cited passage still reads on the limitation of subjecting the encoded message to at least one cryptographic process to form a cryptographically processed message. As to the limitation of decoding the inversely cryptographically processed message by an application according to the encoded format of the network protocol using said decoding of the cryptographically processed message, the examiner believes Fig 7 of Pfaff most clearly discloses this limitation. Note steps 601-606 are basically Fig 6, which described the encoding, cryptographic process, and encoding process. Steps 701-705 describes how the message was received and then gets decoded, inversely cryptographically processed, and decoded again. Page 13-

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15 provides an English description of the German text in the boxes of Fig 7, steps 701-705.

Applicant states that on page 3 of the previous office action, Pfaff does not disclose, "subjecting the encoded message to at least one cryptographic process...Rather, Pfaff discloses applying network protocol coding to a message that has been cryptographically processed." The examiner does not see this disclosure on page 3 of either one of the previous office actions. Rather, the examiner has addressed above how the examiner believes Pfaff reads on this limitation.

Applicant also argues the previous examiner failed to dispute the benefits of performing the operations in the order recited in the independent claims as set forth in the third paragraph on p14 of the 8/27/2004 amendment. In the third paragraph of page 14 of the 8/27/2004 argument filed by applicant, applicant argued that a benefit in applicant's invention of, the proxy agents between the network and manager and agent applications are used to perform the encrypting and decrypting, as well as encoding and decoding using the same protocol as the manager and agent applications, so the encrypted messages can be transmitted properly by the network. "This provides a benefit in that the manager and agent applications can run without any code modifications." The examiner notes that code modification is a part of the software development process and sometimes the benefits obtained from modifying codes outweighs any benefit of time saved from not having to modify code in the long run. For example, one might end up with more efficient software which uses less resource or runs

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faster, so applicant's argument of a benefit from not having any code modifications is not persuasive.

Applicant then makes an argument for claim 29 believing the previous examiner meant to cite p2 instead of p1 for the rejection. The examiner notes the previous examiner cited p14, third and fourth paragraphs for the rejection of claim 29, not p1. Applicant's arguments for claim 29 are based on incorrectly misreading the previous examiner's rejection.

Applicant then argues that the Proxy security server shown in Fig 5 is not a proxy agent application executing on the computer. To this the examiner notes that a server can be both software and/or hardware, so it is entirely possible for the Proxy security server shown in Fig 5 to be an application running on a computer and not just a separate server computer as believed by the applicant.

Applicant then argues that for claim 30, the Proxy security server in Fig 5 does not qualify as either the first or second proxy agent recited in claim 30, because neither the first nor the second applications are location on the proxy security server. As stated already, a server can be both software and/or hardware; so in applying broadest reasonable interpretation to the proxy security server in Fig 5, the examiner believes it can also read on a software server. Software can contain multiple modules, and it is not unreasonable to believe that either the first or second proxy agent as recited in claim 30 can be implemented using the proxy security server in Fig 5.

The rest of the applicant's arguments are very similar to the ones above. They are also rejected for the same reasons given above.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ponnoreay Pich whose telephone number is 571-272-7962. The examiner can normally be reached on 8:00am-4:30pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on 571-272-3859. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PP


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